REMARKS

Claims 1, 7-15, 21-29, and 35-42 are pending and stand rejected.

The Office Action objected to Fig. 11B because of a typographical error. Fig. 11B has been amended to correct the error. A replacement sheet is filed herewith. Applicant respectfully requests that this objection be withdrawn.

The Office Action objected to claims 1 and 15 because of typographical errors. Claims 1 and 15 have been amended as suggested in the Office Action to correct the typographical errors. Applicant respectfully requests that these objections be withdrawn.

The Office Action rejected claims 1, 15, and 29 under 35 USC 112, first paragraph, as failing to comply with the enablement requirement, arguing that "the limitations 'performing further query optimization to produce a result' and 'saving the result in a memory' do not appear in the specification." Office Action at 3 (emphasis in original). Applicant respectfully disagrees. One example of a "result" is shown in Fig. 3 as the output of element 325 ("executable steps"). While the specification may not explicitly say so, a person of ordinary skill would understand that the "executable steps" may be saved in a memory so that they can be acted on by the dispatcher, element 210 shown in Fig. 2. *Abbott Labs v. Andrx Pharmaceuticals, Inc.*, 452 F.3d 1331, 1341 (Fed. Cir. 2006)(the scope of enablement is not limited to what is disclosed in the specification; it also includes "what would be known to one of ordinary skill in the art without undue experimentation), *citing Invitrogen Corp. v. Clontech Labs., Inc.,* 429 F.3d 1052, 1070-71 (Fed. Cir. 2005). Applicant respectfully requests that this rejection be withdrawn.

The Office Action rejected all pending claims under 35 USC 101 arguing that the claimed invention is directed to non-statutory subject matter because the disclosed subject matter fails to produce a tangible result. This rejection appears to arise from the previous rejection, i.e., that the "produce a result" element is not enabled. Applicant has shown that the enablement rejection should be withdrawn. Accordingly, this rejection under 35 USC 101 should be withdrawn as well.

The Office Action rejected claims 1, 7-9, 11-13, 15, 21-23, 25-27, 29, 35-37, and 39-41 under 35 USC 103(a) as being unpatentable over United States Patent No. 6,665,664

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("hereinafter Paulley") in view of United States Patent Publication No. 2005/0055338 (hereinafter "Warner"). Applicant respectfully disagrees.

The Office Action's combination of Paulley and Warner does not teach or suggest determining that the second child node represents the constant 0 and that the parent node represents an arithmetic operation selected from the group consisting of addition and subtraction; and in response, removing the parent node and its children from the tree structure and inserting the first child node in its place, as required by independent claims 1, 15, and 29. The Office Action admits that Paulley does not teach this element. Office Action at 7. Warner does not teach it either. Even assuming the value of one of the nodes 108 or 110 in Warner's Fig. 1 is "0," Warner does not teach "removing the parent node and its children from the tree structure and inserting the first child node in its place," as required by independent claims 1, 15, and 29. Warner teaches "propagating" the result of the evaluation of the operator at 104 up the tree. "Propagating" is not the same as "removing . . . and inserting." In particular, Warner does not teach removing nodes 104, 108, and 110 and inserting one of the child nodes (108 or 110) in its place. For at least this reason, the Office Action's combination of Paulley and Warner does not render claims 1, 15, and 29 obvious. Claims 7-9, 11-13, 21-23, 25-27, 35-37, and 39-41 depend from one of claims 1, 15, and 29 and are patentable for at least the same reason. Applicant respectfully requests that this rejection be withdrawn.

The Office Action rejected claims 10, 14, 24, 28, 38, and 42 under 35 USC 103(a) as being unpatentable over Paulley in view of Esko Nuutila, "Transitive Closure," Helsinki University of Technology, (October 9, 1995)(hereinafter "Nuutila").

Claims 10, 14, 24, 28, 38, and 42 depend from one of claims 1, 15, and 29. The Office Action admits that Paulley is missing several elements from claims 1, 15, and 29, *see* Office Action at 6-8, 10-12, and 15-17, and does not suggest that Nuutila provides the missing elements. Applicant assumes that the Office Action intended to reject claims 10, 14, 24, 28, 38, and 42 under 35 USC 103(a) as being unpatentable over Paulley in view of Warner and further in view of Nuutila.

Applicant respectfully disagrees. As described above, the Office Action's combination of Paulley and Warner does not teach at least one element of claims 1, 15, and 29. The Office

Action does not argue that Nuutila provides the missing element. Accordingly, claims 10, 14, 24, 28, 38, and 42 are patentable for at least the reasons described above for claims 1, 15, and 29.

The Office Action argues that the drawings do not show the method of the independent claims. The Office Action argues that "[r]eferenced Fig. 1 does not show a method, and does not contain elements 320 and 325." Office Action at 22. Applicant respectfully disagrees. Fig. 1 shows the Parsing Engine 130, which is shown in greater detail in Fig. 2. Fig. 2 shows a Parser 205, which is shown in greater detail in Fig. 3. Fig. 3 includes elements 320 and 325.

The Office Action further argues that "it is unclear which steps of Figs. 5-6 and 11A-12 correspond to at least the claim limitations 'performing expression optimization,' 'performing further query optimization,' 'saving the result,' 'representing the query as a tree structure,' and 'representing the expression . . . as a parent node having . . . child node[s].'" Office Action at 22.

"[F]low charts or source code listings are not a requirement for adequately disclosing the functions of software." *Fonar Corp. v. General Electric Co.,* 107 F.3d 1543, 1549 (Fed. Cir. 1997) (best mode context); MPEP 2163(I)(A). Embodiments of claim limitations "performing expression optimization" and "performing further query optimization" are shown in Fig. 3, elements 320 and 325 and in Figs. 5-13. An embodiment of the element "saving the result" is shown as the output of element 325, as discussed above. Embodiments of the elements "representing the query as a tree structure" and "representing the expression in the tree structure as a parent node having a first child node and a second child node" are shown in Figs. 4A and 4B.

The Office Action made further arguments regarding the rejection under 35 USC 101, which appear to duplicate arguments made earlier in the Office Action. Office Action at 23. Applicant responded to the rejection under 35 USC 101 above.

SUMMARY

Applicant contends that the claims are in condition for allowance, which action is requested. Applicant does not believe any fees are necessary with the submitting of this response. Should any fees be required, Applicant requests that the fees be debited from deposit account number 50-4370.

Respectfully submitted,

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